IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Matthew Leal,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	**Civil Action No. 3:16-cv-3274**
All-City Trailer Repair, L.P. f/k/a All-City Trailer Repair, Inc. and Linda Klepchick, Eric Criswell, and Tanya Johnson, individually,	§ § § §	
	§	
	§	
Defendants.		

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Matthew Leal brings this Fair Labor Standards Act ("FLSA") suit against the above-named Defendants and shows as follows:

I. NATURE OF SUIT

1. The FLSA was passed by Congress in 1938 in an attempt to eliminate low wages and long hours and to correct conditions that were detrimental to the health and well-being of workers. To achieve its humanitarian goals, the FLSA "limits to 40 a week the number of hours that an employer may employ any of his employees subject to the Act, unless the employee receives compensation for his employment in excess of 40 hours at a rate not less than one and one-half times the regular rate at which he is employed." *Walling v. Helmerich & Payne,* 323 U.S. 37, 40 (1944) (discussing the requirements of 29 U.S.C. § 207 (a)).

2. Defendants violated the FLSA by failing to pay Plaintiff for all of his overtime hours. Plaintiff was not compensated at the rate of time and one-half his regular rate of pay for all of the hours he was required to work outside of his normal work schedule.

II. PARTIES

3. Plaintiff Matthew Leal is an individual who was employed by Defendants within the meaning of the FLSA. He hereby consents to be a party in this action and his consent form is attached as "Exhibit A."

4. Defendant All-City Trailer Repair, L.P. ("All-City") is a limited partnership authorized to do business, and doing business, in the State of Texas. All-City can be served through its registered agent, Linda Klepchick, at 2002 Goliad Drive, Garland, Texas 75042, or wherever she may be found.

5. Linda Klepchick is an individual residing in Texas and can be served at 2002 Goliad Drive, Garland, Texas 75042, or wherever she may be found.

6. Eric Criswell is an individual residing in Texas and can be served at 6441 Hayes Rd., Midlothian, Texas 76065, or wherever he may be found.

7. Tanya Johnson is an individual residing in Texas and can be served at 2225 Hinton Drive, Irving, Texas 75061, or wherever she may be found.

III. JURISDICTION AND VENUE

8. This Court has jurisdiction over the lawsuit because the suit arises under 29 U.S.C. § 201 *et seq.*

9. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this claim occurred in this district.

IV. COVERAGE

10. At all material times, Defendants have acted, directly or indirectly, in the interest of an employer or joint employer with respect to Plaintiff.

11. At all times hereinafter mentioned, Defendants have been an employer within the meaning of the Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

12. At all times hereinafter mentioned, Defendants have been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

13. At all times hereinafter mentioned, Defendants have been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1), in that said enterprises have had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that said enterprises have had and have an annual gross volume of sales made or business done of not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated).

14. At all times hereinafter mentioned, Plaintiff was an individual employee who was engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. §§ 206–207.

V. FACTUAL ALLEGATIONS

15. Defendant All-City Trailer, L.P. operates with the purpose of providing trailer repair services. It conducts business throughout the United States and does more than $500,000.00 per year in business.

16. Defendant Linda Klepchick is the President of All-City Trailer, L.P. In this capacity, she has the power to hire and fire employees and had this power over Plaintiff during the course of his relevant employment. Additionally, Defendant Klepchick was in charge of Plaintiff's schedule, supervised his work, and had knowledge of the overtime hours worked by Plaintiff, but failed to provide proper redress or lawful pay for this excessive work. In short, she is, in whole or in part, responsible for the overtime violations at issue in this lawsuit.

17. Defendant Eric Criswell is a manager at All-City Trailer, L.P. in Garland, Texas. In this capacity, he has the power to hire and fire employees and had this power over Plaintiff during the course of his relevant employment. Additionally, Defendant Criswell was in charge of Plaintiff's schedule, supervised his work, and had knowledge of the overtime hours worked by Plaintiff, but failed to provide proper redress or lawful pay for this excessive work. In short, he is, in whole or in part, responsible for the overtime violations at issue in this lawsuit.

18. Defendant Tanya Johnson is an office manager at All-City Trailer, L.P. in Garland, Texas. In this capacity, she has the power to hire and fire employees and had this power over Plaintiff during the course of his relevant employment. Additionally, Defendant Johnson was in charge of Plaintiff's schedule, supervised his work, and had knowledge of the overtime hours worked by Plaintiff, but failed to provide proper redress or lawful pay for this excessive work. In short, she is, in whole or in part, responsible for the overtime violations at issue in this lawsuit.

19. Plaintiff worked for Defendants from approximately February 2015 to January 2016. He regularly worked 40 or more hours in a work week at Defendants' place of business.

20. Outside of his regular schedule, Plaintiff was routinely required to work many more hours "off-the-clock." Defendants regularly required Plaintiff to clock out for lunch, although Plaintiff would still be working during this time. In addition, Plaintiff was required to arrive at Defendants' place of business and begin work an hour before Plaintiff was permitted to clock in.

21. Plaintiff was paid on an hourly basis, but was not compensated at the rate of time and one half his regular rate of pay for the many hours he worked outside of his regular shifts. Because Plaintiff regularly worked 40 or more hours per week, any extra time he worked would be considered overtime.

22. Defendants knowingly, willfully, or with reckless disregard carried out their illegal pattern or practice of failing to pay overtime compensation with respect to Plaintiff. Defendants were aware of their legal obligation to pay overtime and failed to do so.

VI. CAUSE OF ACTION: FAILURE TO PAY WAGES IN ACCORDANCE WITH THE FAIR LABOR STANDARDS ACT

23. Plaintiff incorporates all allegations previously made in this Complaint.

24. During the relevant period, Defendants have violated and are violating the provisions of sections 6 and/or 7 of the FLSA, 29 U.S.C. §§ 206, 207, and 215(a)(2), by employing employees in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA for workweeks longer than 40 hours without compensating such employees for their work in excess of forty hours per week at rates no less than one-and-a-half times the regular rates for which they were employed. Defendants have acted willfully in failing to pay Plaintiff in accordance with the law.

VII. RELIEF SOUGHT

25. WHEREFORE, cause having been shown, Plaintiff prays for judgment against Defendants as follows:

a. For an Order pursuant to Section 16(b) of the FLSA finding Defendants liable for unpaid back wages due to Plaintiff and for liquidated damages equal in amount to the unpaid compensation found due to Plaintiff; and

b. For an Order awarding Plaintiff the costs of this action;

c. For an Order awarding Plaintiff attorneys' fees and costs; and

d. For and Order awarding Plaintiff pre-judgment and post-judgment interest at the highest rates allowed by law; and

e. For an Order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

s/Travis Gasper
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is the Original Complaint. Service of this Complaint will be made on Defendants with summons to be issued by the clerk according to the Federal Rules of Civil Procedure.

s/Travis Gasper
TRAVIS GASPER